

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	CRIMINAL NO. 3:15-72
v.	:	(JUDGE MANNION)
MICHAEL COSTELLO,	:	
	:	
Defendant	:	

ORDER

Based on the court's memorandum issued this same day, **IT IS
HEREBY ORDERED THAT:**

- (1)** The defendant Michael Costello's letter Motion for Compassionate Release or for Reduction of Sentence and for Immediate Release to Home Confinement, **(Doc. 93)**, is construed as an emergency petition for writ of habeas corpus pursuant to 28 U.S.C. §2241.
- (2)** The clerk of court is directed to docket defendant's Doc. 93 motion as a §2241 habeas petition and to assign it a separate civil number. Due to the immediate request for relief sought, the clerk of court is directed forgo the thirty-day administrative order requiring defendant to pay the filing fee for a habeas petition, as that can be addressed in the proper jurisdictional court.

- (3) The clerk of court is then directed to forthwith transfer defendant's habeas petition to the U.S. District Court for the District of Minnesota.
- (4) To the extent defendant's Doc. 93 motion can be construed a motion for compassionate release, it is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction since he has failed to comply with §3582(c)(1)(A)'s exhaustion requirement.
- (5) To the extent defendant's Doc. 93 motion can be alternatively construed as a motion for immediate release to home confinement under the CARES Act, it is **DISMISSED** since the court lacks authority to grant such relief under the Act.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: May 11, 2020

15-72-01-Order